

"Middle class Kentuckians are hurting because of ObamaCare," she said. "Residents [have] little choice for health plans" and "our family is not the only one suffering from the high costs of health insurance." She concluded, "I hope you will push hard to fix our healthcare system."

I know many of my colleagues have received letters like this one from their constituents as well.

ObamaCare has caused so much pain for families across our country, and it is not going to just magically somehow get better on its own. I know that, like so many families across the country, I am not satisfied with the ObamaCare status quo, and I don't think it is acceptable for its failures to be considered the new normal. As the people of Kentucky have shown in election after election, they don't either.

Senate Republicans are working together to move past the problems of ObamaCare and to help those who have been hurt by it. We would love for Democrats to join us. Democrats have already effectively conceded that ObamaCare has failed. Now the question is, Will they work with us to actually fix this mess, or will they waste more time in some futile attempt to now redirect blame? The ObamaCare status quo is unsustainable. It is indefensible, and we have to move beyond it before more Americans get hurt.

#### NOMINATION OF AMUL THAPAR

Mr. MCCONNELL. Mr. President, on another matter, later today Senators will vote to confirm Judge Amul Thapar of Kentucky to the U.S. Appeals Court for the Sixth Circuit. Judge Thapar will make an outstanding addition to the U.S. Appeals Court for the Sixth Circuit. He has a reputation as a qualified judge with an impressive legal mind. He will fairly apply the law to all those who enter his courtroom because, in Judge Thapar's own words, "the most important attribute of a judge is to be open-minded and not to prejudice a case without reading the briefs, researching the law, and hearing from the parties."

In 2007, President Bush nominated him to be a U.S. district judge for the Eastern District of Kentucky. At that time, the Senate confirmed his nomination on a voice vote, and Judge Thapar became the first South Asian American Federal judge in the history of our country. When we confirm him to the Sixth Circuit later today, he will be the second South Asian American judge ever to serve on a Federal circuit court.

Judge Thapar has been recognized for his work on the bench. The most recent edition of the Almanac of the Federal Judiciary quoted attorneys who "agreed that Thapar has excellent legal ability." Additionally, the American Bar Association, which prominent Senate Democrats have called "the gold standard" for evaluating judges, awarded him its highest rating—unani-

mously "well qualified." In other words, the people involved in rating him couldn't find anybody who didn't say he was well qualified. That is the highest rating one can achieve.

Judge Thapar has the necessary credentials, integrity, and respect from his colleagues to join the Sixth Circuit. I am proud to support him, and I urge all Senators to vote to confirm Judge Thapar's nomination later today.

#### MEMORIAL DAY

Mr. MCCONNELL. Mr. President, as we approach the Memorial Day weekend, we are reminded of the great sacrifices so many men and women in uniform have made on our behalf throughout the years. The servicemembers whose memory we honor paid the ultimate price in defending our Nation, our families, and our freedom. We are forever indebted to them. But as we reflect upon the fallen soldiers, sailors, airmen, and marines, we are also reminded of the responsibility we have to the heroes who have returned home—our veterans.

I don't have to tell colleagues how important keeping our commitment to our veterans is. We have an All-Volunteer Force. We cannot break faith with the Americans who bravely and willingly fight on our behalf. One way we can honor them is by working to ensure that they receive the quality, timely care they need through the Department of Veterans Affairs. That is why, after the State work period, we will be taking up a bipartisan bill reported out of committee just yesterday that will enhance accountability at the VA, improve the care veterans receive, and empower the VA with the tools necessary to remove employees who are failing to perform at the high-quality level our Nation's heroes richly deserve. Importantly, this bill—the Department of Veterans Affairs Accountability and Whistleblower Protection Act—will build on progress we have already made with the 2014 Veterans Access, Choice, and Accountability Act.

We know that many challenges remain in ensuring that veterans have access to the care they need and deserve at the VA, but this legislation will further improve our ability to meet our commitment to them. I appreciate Chairman ISAKSON for his continued efficacy on behalf of our veterans, as well as Senator RUBIO for his leadership on this critical legislation. I look forward to the full Senate taking up the bill and passing it soon.

#### CELEBRATING THE COMMONWEALTH OF KENTUCKY'S 225th ANNIVERSARY

Mr. MCCONNELL. One final matter, Mr. President. Next week on June 1, the Commonwealth of Kentucky will celebrate the 225th anniversary of its admittance as a State into the Union. Originally part of Virginia known as the Kentucky County, it became the

15th State of this Nation in 1792. So today I rise to celebrate my home State of Kentucky, the Commonwealth of Kentucky, a place the Native American Wyandot Nation called the "land of tomorrow."

Once considered the far western frontier, Kentucky has developed into a State with diverse industries, a strong heritage, and international prominence.

When you think about my home State, many things follow as distinctly Kentuckian. The natural beauty of our mountains, farmlands, and riverways foster deep love. Blessed with fertile land and an abundance of coal, Kentucky's cultural heritage has developed in both the fields and the mines. The proud tradition of the Commonwealth includes bourbon and basketball, but also pioneers, statesmen, artists, scholars, and athletes.

From the days of Daniel Boone's heroic exploration through the Cumberland Gap, Kentucky has been home to numerous courageous men and women. The trailblazing spirit has animated Kentuckians from all walks of life throughout the generations. A pioneer of abdominal surgery, Ephraim McDowell expanded the boundaries of medical science. Tori Murden McClure rowed across the Atlantic Ocean as the first American and first woman to brave the waters alone. Responsible for a world famous fried chicken recipe, Colonel Harland Sanders franchised his store at the age of 62 and taught us all that it is never too late to chase our passion. Acclaimed news anchor Diane Sawyer, born in Glasgow, began her career as a weather forecaster in Louisville. Muhammad Ali, an international sports legend, became a global ambassador for peace.

The Commonwealth has given rise to statesmen who have defended the Union, protected our liberties, and represented Kentucky values. Leaders like Henry Clay, Abraham Lincoln, and Alben Barkley each left an indelible imprint on the history of our Nation. Civil rights icon Georgia Powers fought against racial injustice in our State, inspired Kentucky to open public accommodations, and was the first African American to serve in the Kentucky State Senate.

Kentucky's poets, musicians, and actors have garnered international acclaim for their craft. Jesse Stuart's poems and short stories captured the beauty of Kentucky's mountains, and Pulitzer Prize winning author Robert Penn Warren described the unbreakable link between poetry and democracy. The National Quilt Museum in Paducah is a global center of creativity and tourism. Kentucky is also home to music legends and Grammy Award winners like Loretta Lynn and Chris Stapleton and the birthplace of entertainment stars such as Jennifer Lawrence, George Clooney, and Johnny Depp.

In the world's greatest college basketball rivalry between the University

of Louisville and the University of Kentucky, legendary coaches and unforgettable players have, for decades, kept fans on the edges of their seats until the final buzzer. For over 140 years, the Kentucky Derby has been known as a mile and a quarter that makes champions and brings the eyes of the world to Louisville.

I am exceptionally proud to represent Kentucky in the U.S. Senate, and I am forever grateful to the people of my home State for giving me the opportunity to do just that. Kentucky has a distinguished history, and I am confident that trailblazers and pioneers from across the Bluegrass State will continue to make it the land of tomorrow. It is my honor to call the Commonwealth my home, and I look forward to celebrating this 225th anniversary next week.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the Thapar nomination, which the clerk will report.

The assistant bill clerk read the nomination of Amul R. Thapar, of Kentucky, to be United States Circuit Judge for the Sixth Circuit.

The ACTING PRESIDENT pro tempore. The Democratic whip.

Mr. DURBIN. Mr. President, I rise in opposition to the nomination of Judge Amul Thapar to serve on the Sixth Circuit Court of Appeals.

Judge Thapar is President Trump's first nominee to serve on a Federal appeals court. Last week, the Senate Judiciary Committee considered this nomination and no Democrat voted for it.

Judge Thapar is on the list of 21 candidates that the Federalist Society and Heritage Foundation have selected for President Donald Trump to choose from when filling Supreme Court vacancies.

Judge Thapar is well known to the Federalist Society. He was a member of that organization prior to becoming a district court judge, and since he became a judge he has spoken at Federalist Society events 17 times.

Some of my colleagues on the Republican side are like Captain Renault in *Casablanca*, who claimed he was

"shocked, shocked" to find out there was gambling going on in Rick's Cafe.

They are shocked that anyone could be concerned about the Federalist Society, which they claim is just a simple debate club. Far from it—consider the following background.

The organization was founded in 1982 by students at two law schools, Yale and the University of Chicago, under the faculty supervision of Robert Bork and Antonin Scalia, who just happen to be the two most prominent conservative legal scholars of their generation.

According to a recent article about the Federalist Society by Jeffrey Toobin: "within just a few years, the group was embraced and funded by a number of powerful, wealthy conservative organizations, which eventually included foundations associated with John Olin, Lynde and Harry Bradley, Richard Scaife, and the Koch Brothers."

The Federalist Society's website includes the group's purpose statement. It claims that the legal profession is: "currently strongly dominated by a form of orthodox liberal ideology which advocates a centralized and uniform society."

The statement describes the Federalist Society as a group of conservatives and libertarians calling for: "re-ordering priorities within the legal system," to fit their principles. Does that sound like the mission statement of a nonpartisan debate society?

How has the Federalist Society gone about this reordering? It's been largely the work of Mr. Leonard Leo, the longtime executive vice president of the Federalist Society who is currently serving as an advisor to the Trump White House.

Mr. Leo has been credited with being a driving force behind the Supreme Court nominations of Justice Neil Gorsuch, Chief Justice John Roberts and Justice Samuel Alito. That is one-third of the current Supreme Court that he has helped put in place.

Mr. Leo recently gave a speech where he said: "I've seen that comment about the third of the Supreme Court. I prefer controlling interests. But we haven't quite been able to launch a hostile takeover yet."

Mr. Leo went on to advocate for radical change, saying: "I would love to see the courts unrecognizable." He has said of the judicial confirmation process: "it's like war."

In an unprecedented move, President Trump outsourced the selection of Supreme Court candidates to Mr. Leo, the Federalist Society, and the right-wing Heritage Foundation. He publicly thanked these special interest groups for putting together his list of 21 Supreme Court candidates, and Mr. Leo was the first person to call Neil Gorsuch about his nomination.

As Jeffrey Toobin wrote, Leonard Leo: "knew how to play the game—how to find a nominee who met Trump's ideological requirements as well as his own, while observing the proprieties expected for judicial nominees."

Mr. Leo told Mr. Toobin that it was: "easy" to find these nominees because: "when you've been working in this vineyard for twenty-five years you know everybody."

That brings us back to Judge Thapar. Leonard Leo, and the big money right-wing interests that fund the Federalist Society, feel that they know Judge Thapar well enough to include him on the list of 21.

They have had plenty of opportunity to get a sense of his views, as Judge Thapar had been a member of the Federalist Society and has frequently spoken at their events.

At his hearing and in my questions to him, I sought reassurance from Judge Thapar that he would be independent from this right-wing group and President Trump.

His answers did not provide that reassurance.

For example, I asked Judge Thapar whether he agreed or disagreed with the Federalist Society's purpose statement. He ducked the question, saying he didn't know what the Federalist Society meant by the statement.

I asked him if he thought it was appropriate for the President to delegate his Supreme Court selection process to the Federalist Society and Heritage Foundation, since this creates incentive for judges not to contravene the views of those organizations and their big-money donors. He ducked again, saying he would not opine on this because he claimed it was a "political question."

In the aftermath of *Citizens United*, special interest groups pour dark money into campaigns in support of Republican judicial nominees like Judge Thapar. I asked Judge Thapar if he would discourage secret donations in support of his nomination.

After all, if we don't know who is secretly donating in support of his nomination, how will we know when Judge Thapar needs to recuse himself because one of those donors has an interest in a case he is considering?

He dodged that question too, saying he wasn't aware of any donations about his nomination. Of course, he wouldn't be aware of secret donations—that's the problem.

I also asked him about the original understanding of the Constitution's Emoluments Clause. He said he could not discuss it because there is pending litigation on the matter.

That is curious, because I thought the Federalist Society's view was that the original meaning of constitutional provisions was immutable and unchanging. If the meaning of the Constitution doesn't change, why do Federalist Society nominees decline to tell us this meaning when there is litigation underway affecting President Trump?

I asked Judge Thapar about his decision in *Winter v. Wolnitzek*. This was a major campaign finance decision in which he applied strict scrutiny to invalidate a ban on judges making political contributions. A unanimous Sixth Circuit panel reversed his ruling.